IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 3RD JULY, 2007 / 12TH ASHADHA, 1929

WP(C).No. 20292 of 2007(N)

PETITIONER:

JOY JOSEPH,
THOOMULLIL HOUSE, KADAVOOR P.O.,
KOTHAMANGALAM TALUK, ERNAKULAM.

BY ADV. SRI.GEORGE JACOB (JOSE)
SMT.RESHMI POULOSE

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
ERNAKULAM.

3. THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA.

4. THE TAHSILDAR,
TALUK OFFICE, KOTHAMANGALAM.

BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 20292 OF 2007 - N

Dated this the 3rd day of July, 2007

J U D G M E N T

The petitioner challenges Ext.P5 proceedings by which he has been directed to vacate the property mentioned therein within 24 hours. The contention of the petitioner is that the property mentioned therein belongs absolutely to the petitioner and he has not encroached upon any Government land. The petitioner has got a further contention that Ext.P5 was not preceded by a notice or hearing as contemplated under the Kerala Land Conservancy Act and Rules. Therefore, the petitioner challenges Ext.P5 on the ground of violation of principles of natural justice also.

2. I have heard the learned Government Pleader. He could not satisfy me that Ext.P5 was preceded by a notice or hearing. Ext.P5 does not contain any reason as to why emergency provisions under the Kerala Land Conservancy Act should be invoked which is a condition precedent for invoking that provision. Therefore, I am satisfied that Ext.P5 has been issued in violation of

principles of natural justice as well as provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P5 is considered as a show cause notice, it would not be necessary to quash the same, especially since the petitioner has filed Ext.P6 objection to Ext.P5.

3. In the above circumstances, the writ petition is disposed of with a direction to the fourth respondent to consider Ext.P5 as a show cause notice and Ext.P6 as reply to Ext.P5. Thereafter, the fourth respondent shall afford an opportunity of being heard to the petitioner which shall include opportunity to adduce evidence also. After hearing the petitioner as above, the fourth respondent shall pass a speaking order dealing with the contentions of the petitioner based on the evidence to be produced by him. Until order so passed is communicated to the petitioner, the petitioner shall not be evicted from the property in question.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007